

compensation filed solely under 5 U.S.C. chapter 85; and

(ii) The report of the number of continued weeks claimed filed in the State for regular compensation shall not be adjusted for seasonality.

(3) The average weekly number of weeks claimed in claims filed in the most recent calendar week and the immediately preceding 12 calendar weeks.

(4) The rate of insured unemployment for the current 13-week period.

(5) The average of the rates of insured unemployment in corresponding 13-week periods in the preceding two years.

(6) The current rate of insured unemployment as a percentage of the average of the rates in the corresponding 13-week periods in the preceding two years.

(7) The 12 month average monthly employment covered by the State law for the first 4 of the last 6 complete calendar quarters ending prior to the end of the last week of the current 13-week period to which the insured unemployment data relate. Such covered employment shall exclude Federal civilian and military employment covered by 5 U.S.C. chapter 85.

(8) The date that a State Extended Benefit Period begins or ends, or a report that there is no change in the existing Extended Benefit Period status.

(d) *Methodology.* The State agency head shall submit to the Department, for approval, the method used to identify and select the weeks claimed which are used in the determination of an “on” or “off” or “no change” indicator. Any change proposed in the method of identification and selection of such weeks claimed constitutes a new plan which must be submitted to and approved by the Department prior to implementing the new plan.

(Approved by the Office of Management and Budget under control number 1205-0028)

## **PART 616—INTERSTATE ARRANGEMENT FOR COMBINING EMPLOYMENT AND WAGES**

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AUTHORITY: 26 U.S.C. 3304(a)(9)(B); Secretary's Order No. 3-2007, Apr. 3, 2007 (72 FR 15907).

SOURCE: 36 FR 24992, Dec. 28, 1971, unless otherwise noted.

### **§ 616.1 Purpose of arrangement.**

This arrangement is approved by the Secretary under the provisions of section 3304(a)(9)(B) of the Federal Unemployment Tax Act to establish a system whereby an unemployed worker with covered employment or wages in more than one State may combine all such employment and wages in one State, in order to qualify for benefits or to receive more benefits.

### **§ 616.2 Consultation with the State agencies.**

As required by section 3304(a)(9)(B), this arrangement has been developed in consultation with the State unemployment compensation agencies. For purposes of such consultation in its formulation and any future amendment the Secretary recognizes, as agents of the State agencies, the duly designated representatives of the National Association of State Workforce Agencies (NASWA).

[36 FR 24992, Dec. 28, 1971, as amended at 71 FR 35514, June 21, 2006]

### **§ 616.3 Interstate cooperation.**

Each State agency will cooperate with every other State agency by implementing such rules, regulations, and procedures as may be prescribed for the operation of this arrangement. Each State agency shall identify the paying and the transferring State with respect to Combined-Wage Claims filed in its State.

### **§ 616.4 Rules, regulations, procedures, forms—resolution of disagreements.**

All State agencies shall operate in accordance with such rules, regulations, and procedures, and shall use

such forms, as shall be prescribed by the Secretary in consultation with the State unemployment compensation agencies. All rules, regulations, and standards prescribed by the Secretary with respect to intrastate claims will apply to claims filed under this arrangement unless they are clearly inconsistent with the arrangement. The Secretary shall resolve any disagreement between State agencies concerning the operation of the arrangement, with the advice of the duly designated representatives of the State agencies.

#### § 616.6 Definitions.

These definitions apply for the purpose of this arrangement and the procedures issued to effectuate it.

(a) *State*. “State” includes the States of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(b) *State agency*. The agency which administers the unemployment compensation law of a State.

(c) *Combined-Wage Claim*. A claim filed under this arrangement.

(d) *Combined-Wage Claimant*. A claimant who has covered wages under the unemployment compensation law of more than one State and who has filed a claim under this arrangement.

(e) *Paying State*. A single State against which the claimant files a Combined-Wage Claim, if the claimant has wages and employment in that State’s base period(s) and the claimant qualifies for unemployment benefits under the unemployment compensation law of that State using combined wages and employment.

(f) *Transferring State*. A State in which a Combined-Wage Claimant had covered employment and wages in the base period of a paying State, and which transfers such employment and wages to the paying State for its use in determining the benefit rights of such claimant under its law.

(g) *Employment and wages*. “Employment” refers to all services which are covered under the unemployment compensation law of a State, whether expressed in terms of weeks of work or otherwise. “Wages” refers to all remuneration for such employment.

(h) *Secretary*. The Secretary of Labor of the United States.

(i) *Base period and benefit year*. The base period and benefit year applicable under the unemployment compensation law of the paying State.

[36 FR 24992, Dec. 28, 1971, as amended at 39 FR 45215, Dec. 31, 1974; 43 FR 2625, Jan. 17, 1978; 71 FR 35514, June 21, 2006; 73 FR 63072, Oct. 23, 2008]

#### § 616.7 Election to file a Combined-Wage Claim.

(a) Any unemployed individual who has had employment covered under the unemployment compensation law of two or more States, whether or not the individual is monetarily qualified under one or more of them, may elect to file a Combined-Wage Claim. The individual may not so elect, however, if the individual has established a benefit year under any State or Federal unemployment compensation law and:

(1) The benefit year has not ended, and

(2) The individual still has unused benefit rights based on such benefit year.<sup>1</sup>

(b) For the purposes of this arrangement, a claimant will not be considered to have unused benefit rights based on a benefit year which the claimant has established under a State or Federal unemployment compensation law if:

(1) The claimant has exhausted his/her rights to all benefits based on such benefit year; or

(2) The claimant’s rights to such benefits have been postponed for an indefinite period or for the entire period in which benefits would otherwise be payable; or

<sup>1</sup>The Federal-State Extended Unemployment Compensation Act of 1970, title II, Public Law 91-373, section 202(a)(1), limits the payment of extended benefits with respect to any week to individuals who have no rights to regular compensation with respect to such week under any State unemployment compensation law or to compensation under any other Federal law and in certain other instances. This provision precludes any individual from receiving any Federal-State extended benefits with respect to any week for which the individual is eligible to receive regular benefits based on a Combined Wage Claim. (See section 5752, part V of the Employment Security Manual.)